
HOUSE BILL 3162

State of Washington

61st Legislature

2010 Regular Session

By Representatives Hasegawa, Hudgins, Chase, Simpson, Dickerson, and Goodman

Read first time 02/01/10. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to authorizing the creation of a state bank;
2 amending RCW 42.56.270, 42.56.400, and 43.08.150; adding a new chapter
3 to Title 43 RCW; and providing a contingent effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that access to capital
6 is vitally important for the health, security, and well-being of all
7 individuals and businesses in our state. They are the economic drivers
8 that help Washington's commerce run smoothly. The lack of accessible
9 capital, as currently experienced due to the economic downturn, is
10 exacerbating the economic hardships being faced by working families and
11 businesses.

12 The legislature further finds that it can best direct economic
13 development policy initiatives in a responsive and efficient manner
14 with a state bank at its disposal.

15 The mission of the state bank of Washington is to promote
16 agriculture, education, community development, economic development,
17 commerce, and industry in Washington state. In this role, the bank
18 acts as a funding resource in partnership with other financial
19 institutions, economic development groups, and guaranty agencies.

1 Accuracy of financial reporting and compliance with all applicable laws
2 and regulations is an integral part of the state bank of Washington's
3 overall risk management strategy.

4 It is the intent of the legislature that all state funds and funds
5 of state institutions are deposited at the state bank of Washington and
6 are guaranteed by the state. Other deposits may be accepted from any
7 private or public source.

8 NEW SECTION. **Sec. 2.** (1) "Advisory board" or "board" means the
9 board of the state bank of Washington.

10 (2) "Department" means the department of financial institutions.

11 (3) "Director" means the director of financial institutions.

12 (4) "Mutual fund" means a diversified mutual fund registered with
13 the federal securities and exchange commission and which is managed by
14 an investment advisor with assets under management of at least five
15 hundred million dollars.

16 (5) "President" means the president of the state bank of
17 Washington.

18 (6) "State bank of Washington" or "bank" means the financial
19 institution.

20 (7) "State-chartered bank" means any corporation organized under
21 the laws of this state engaged in banking, other than a trust company,
22 savings association, or a mutual savings bank. It does not include the
23 state bank of Washington.

24 (8) "State moneys" has the same meaning as in RCW 43.85.200.

25 (9) "Substantial interest" means any investment, loan, ownership
26 interest, credit, or stock in any business or entity. It does not
27 include a mutual fund unless the interest is at least ten percent of
28 the value of the mutual fund.

29 (10) "Treasurer" means the treasurer of the state of Washington.

30 NEW SECTION. **Sec. 3.** The state bank of Washington is created.
31 The treasurer may deposit state moneys in the bank.

32 NEW SECTION. **Sec. 4.** The bank may make loans subject to the
33 limitations in this chapter and any rules adopted by the treasurer.
34 The bank has the ability to charge the same terms for a loan or
35 extension of credit as a state-chartered bank under RCW 30.04.025 and

1 to exercise any other power or authority permissible to a
2 state-chartered bank under RCW 30.08.140. The bank may invest state
3 moneys in any manner that ensures appropriate cash management. The
4 bank may not make a loan to any board member, the president, or any
5 officer of the bank.

6 NEW SECTION. **Sec. 5.** The board must:

7 (1) Meet regularly with the management of the bank to review the
8 bank's operations;

9 (2) Make recommendations to the treasurer relating to improved
10 management performance, better customer service, and overall
11 improvement in internal methods, procedures, and operating policies of
12 the bank;

13 (3) Make recommendations relating to the establishment of
14 additional objectives for the operation of the bank; and

15 (4) Make recommendations to the treasurer concerning the
16 appointment of officers of the bank.

17 NEW SECTION. **Sec. 6.** (1) The board consists of eleven voting
18 members. The treasurer is a voting member and is the chair of the
19 board. Ten members are appointed by the governor. At least three
20 members must be representatives from banks chartered in the state. At
21 least three members must be residents of the state who are not employed
22 by, serve on the board of directors of, or have a substantial ownership
23 interest in any financial institution. The director is an ex officio
24 member.

25 (2) The term of a board member is four years. Three of the
26 original board members must be appointed to serve an initial term of
27 four years, two must be appointed to serve an initial term of three
28 years, two must be appointed to serve an initial term of two years, and
29 the two remaining members must be appointed to serve a one-year initial
30 term. All subsequent terms are for four years. A board member may be
31 removed for cause by the governor.

32 (3) Each person serving on the board or any subcommittee of the
33 board and each officer and employee of the bank must be indemnified by
34 the bank against all costs and expenses actually and necessarily
35 incurred by him, her, or it in connection with the defense of any
36 action, suit, or proceeding in which he, she, or it is made a party by

1 reason of his, her, or its being or having been a member of the board,
2 or a member or officer or employee, except in relation to matters as to
3 which he, she, or it has been judged in such action, suit, or
4 proceeding to be liable by reason of willful misconduct in the
5 performance of his, her, or its duties as a member of the board, or
6 member, officer, or employee. This indemnification is not exclusive of
7 other rights as to which the member, officer, or employee may be
8 entitled as a matter of law.

9 (4) Members of the board may be reimbursed by the bank for actual
10 and necessary expenses incurred to attend meetings.

11 NEW SECTION. **Sec. 7.** The treasurer must appoint a president. The
12 treasurer may appoint other officers. The treasurer may remove the
13 president and any officer for any reason.

14 NEW SECTION. **Sec. 8.** The director may examine the state bank in
15 the same manner as a state-chartered financial institution under RCW
16 30.04.060. The bank must pay the director for the costs of an
17 examination.

18 NEW SECTION. **Sec. 9.** (1) By December 1st of each year, the
19 treasurer must make an annual report to the legislature on the affairs
20 of the bank. The report may include any recommendations that would
21 improve the affairs of the bank.

22 (2)(a) Under RCW 42.56.270 and 42.56.400, certain state bank
23 business records, treasurer's records, and department of financial
24 institutions records relating to the state bank are exempt from public
25 disclosure.

26 (b) Financial and commercial information and records submitted to
27 either the department or the treasurer for the purpose of administering
28 this chapter may be shared between the department and the treasurer.
29 They may also be used, if required, in any suit or administrative
30 hearing involving any provision of this chapter.

31 (c) This subsection does not prohibit:

32 (i) The issuance of general statements based upon the reports of
33 persons subject to this chapter as long as the statements do not
34 identify the information furnished by any person; or

1 (ii) The publication by the director or the treasurer of the name
2 of any person violating this chapter and a statement of the manner of
3 the violation by that person.

4 NEW SECTION. **Sec. 10.** The treasurer may adopt any rules necessary
5 to implement this act, including but not limited to rules regarding:

- 6 (1) Objectives of the bank;
- 7 (2) Criteria for evaluating a loan;
- 8 (3) Individual and aggregate lending limits for one borrower; and
- 9 (4) Eligibility for borrowing.

10 NEW SECTION. **Sec. 11.** The bank is exempt from payment of all fees
11 and all taxes levied by the state or any of its subdivisions.

12 **Sec. 12.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read
13 as follows:

14 The following financial, commercial, and proprietary information is
15 exempt from disclosure under this chapter:

16 (1) Valuable formulae, designs, drawings, computer source code or
17 object code, and research data obtained by any agency within five years
18 of the request for disclosure when disclosure would produce private
19 gain and public loss;

20 (2) Financial information supplied by or on behalf of a person,
21 firm, or corporation for the purpose of qualifying to submit a bid or
22 proposal for (a) a ferry system construction or repair contract as
23 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
24 or improvement as required by RCW 47.28.070;

25 (3) Financial and commercial information and records supplied by
26 private persons pertaining to export services provided under chapters
27 43.163 and 53.31 RCW, and by persons pertaining to export projects
28 under RCW 43.23.035;

29 (4) Financial and commercial information and records supplied by
30 businesses or individuals during application for loans or program
31 services provided by chapters 43.325, 43.163, 43.160, 43.330, 43.--
32 (the new chapter created in section 16 of this act), and 43.168 RCW, or
33 during application for economic development loans or program services
34 provided by any local agency;

1 (5) Financial information, business plans, examination reports, and
2 any information produced or obtained in evaluating or examining a
3 business and industrial development corporation organized or seeking
4 certification under chapter 31.24 RCW;

5 (6) Financial and commercial information supplied to the state
6 investment board by any person when the information relates to the
7 investment of public trust or retirement funds and when disclosure
8 would result in loss to such funds or in private loss to the providers
9 of this information;

10 (7) Financial and valuable trade information under RCW 51.36.120;

11 (8) Financial, commercial, operations, and technical and research
12 information and data submitted to or obtained by the clean Washington
13 center in applications for, or delivery of, program services under
14 chapter 70.95H RCW;

15 (9) Financial and commercial information requested by the public
16 stadium authority from any person or organization that leases or uses
17 the stadium and exhibition center as defined in RCW 36.102.010;

18 (10)(a) Financial information, including but not limited to account
19 numbers and values, and other identification numbers supplied by or on
20 behalf of a person, firm, corporation, limited liability company,
21 partnership, or other entity related to an application for a horse
22 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
23 license, gambling license, or lottery retail license;

24 (b) Internal control documents, independent auditors' reports and
25 financial statements, and supporting documents: (i) Of house-banked
26 social card game licensees required by the gambling commission pursuant
27 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
28 with an approved tribal/state compact for class III gaming;

29 (11) Proprietary data, trade secrets, or other information that
30 relates to: (a) A vendor's unique methods of conducting business; (b)
31 data unique to the product or services of the vendor; or (c)
32 determining prices or rates to be charged for services, submitted by
33 any vendor to the department of social and health services for purposes
34 of the development, acquisition, or implementation of state purchased
35 health care as defined in RCW 41.05.011;

36 (12)(a) When supplied to and in the records of the department of
37 (~~community, trade, and economic development~~) commerce;

1 (i) Financial and proprietary information collected from any person
2 and provided to the department of (~~community, trade, and economic~~
3 ~~development~~) commerce pursuant to RCW 43.330.050(8); and

4 (ii) Financial or proprietary information collected from any person
5 and provided to the department of (~~community, trade, and economic~~
6 ~~development~~) commerce or the office of the governor in connection with
7 the siting, recruitment, expansion, retention, or relocation of that
8 person's business and until a siting decision is made, identifying
9 information of any person supplying information under this subsection
10 and the locations being considered for siting, relocation, or expansion
11 of a business;

12 (b) When developed by the department of (~~community, trade, and~~
13 ~~economic development~~) commerce based on information as described in
14 (a)(i) of this subsection, any work product is not exempt from
15 disclosure;

16 (c) For the purposes of this subsection, "siting decision" means
17 the decision to acquire or not to acquire a site;

18 (d) If there is no written contact for a period of sixty days to
19 the department of (~~community, trade, and economic development~~)
20 commerce from a person connected with siting, recruitment, expansion,
21 retention, or relocation of that person's business, information
22 described in (a)(ii) of this subsection will be available to the public
23 under this chapter;

24 (13) Financial and proprietary information submitted to or obtained
25 by the department of ecology or the authority created under chapter
26 70.95N RCW to implement chapter 70.95N RCW;

27 (14) Financial, commercial, operations, and technical and research
28 information and data submitted to or obtained by the life sciences
29 discovery fund authority in applications for, or delivery of, grants
30 under chapter 43.350 RCW, to the extent that such information, if
31 revealed, would reasonably be expected to result in private loss to the
32 providers of this information;

33 (15) Financial and commercial information provided as evidence to
34 the department of licensing as required by RCW 19.112.110 or
35 19.112.120, except information disclosed in aggregate form that does
36 not permit the identification of information related to individual fuel
37 licensees;

1 (16) Any production records, mineral assessments, and trade secrets
2 submitted by a permit holder, mine operator, or landowner to the
3 department of natural resources under RCW 78.44.085;

4 (17)(a) Farm plans developed by conservation districts, unless
5 permission to release the farm plan is granted by the landowner or
6 operator who requested the plan, or the farm plan is used for the
7 application or issuance of a permit;

8 (b) Farm plans developed under chapter 90.48 RCW and not under the
9 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
10 RCW 42.56.610 and 90.64.190;

11 (18) Financial, commercial, operations, and technical and research
12 information and data submitted to or obtained by a health sciences and
13 services authority in applications for, or delivery of, grants under
14 RCW 35.104.010 through 35.104.060, to the extent that such information,
15 if revealed, would reasonably be expected to result in private loss to
16 providers of this information;

17 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
18 that can be identified to a particular business; and

19 (20) Financial and commercial information submitted to or obtained
20 by the University of Washington, other than information the university
21 is required to disclose under RCW 28B.20.150, when the information
22 relates to investments in private funds, to the extent that such
23 information, if revealed, would reasonably be expected to result in
24 loss to the University of Washington consolidated endowment fund or to
25 result in private loss to the providers of this information.

26 **Sec. 13.** RCW 42.56.400 and 2009 c 104 s 23 are each amended to
27 read as follows:

28 The following information relating to insurance and financial
29 institutions is exempt from disclosure under this chapter:

30 (1) Records maintained by the board of industrial insurance appeals
31 that are related to appeals of crime victims' compensation claims filed
32 with the board under RCW 7.68.110;

33 (2) Information obtained and exempted or withheld from public
34 inspection by the health care authority under RCW 41.05.026, whether
35 retained by the authority, transferred to another state purchased
36 health care program by the authority, or transferred by the authority

1 to a technical review committee created to facilitate the development,
2 acquisition, or implementation of state purchased health care under
3 chapter 41.05 RCW;

4 (3) The names and individual identification data of either all
5 owners or all insureds, or both, received by the insurance commissioner
6 under chapter 48.102 RCW;

7 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

8 (5) Information provided under RCW 48.05.510 through 48.05.535,
9 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
10 through 48.46.625;

11 (6) Examination reports and information obtained by the department
12 of financial institutions from banks under RCW 30.04.075, from savings
13 banks under RCW 32.04.220, from savings and loan associations under RCW
14 33.04.110, from credit unions under RCW 31.12.565, from the state bank
15 of Washington under section 9 of this act, from check cashers and
16 sellers under RCW 31.45.030(3), and from securities brokers and
17 investment advisers under RCW 21.20.100, all of which is confidential
18 and privileged information;

19 (7) Information provided to the insurance commissioner under RCW
20 48.110.040(3);

21 (8) Documents, materials, or information obtained by the insurance
22 commissioner under RCW 48.02.065, all of which are confidential and
23 privileged;

24 (9) Confidential proprietary and trade secret information provided
25 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
26 48.31C.070;

27 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
28 7.70.140 that, alone or in combination with any other data, may reveal
29 the identity of a claimant, health care provider, health care facility,
30 insuring entity, or self-insurer involved in a particular claim or a
31 collection of claims. For the purposes of this subsection:

32 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

33 (b) "Health care facility" has the same meaning as in RCW
34 48.140.010(6).

35 (c) "Health care provider" has the same meaning as in RCW
36 48.140.010(7).

37 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

38 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

1 (11) Documents, materials, or information obtained by the insurance
2 commissioner under RCW 48.135.060;

3 (12) Documents, materials, or information obtained by the insurance
4 commissioner under RCW 48.37.060;

5 (13) Confidential and privileged documents obtained or produced by
6 the insurance commissioner and identified in RCW 48.37.080;

7 (14) Documents, materials, or information obtained by the insurance
8 commissioner under RCW 48.37.140;

9 (15) Documents, materials, or information obtained by the insurance
10 commissioner under RCW 48.17.595; and

11 (16) Documents, materials, or information obtained by the insurance
12 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii).

13 **Sec. 14.** RCW 43.08.150 and 2009 c 549 s 5045 are each amended to
14 read as follows:

15 As soon as possible after the close of each calendar month, the
16 state treasurer shall prepare a report as to the state of the general
17 fund, the bank, and every other fund under his or her control itemized
18 as to:

19 (1) The amount in the fund at the close of business at the end of
20 the preceding month;

21 (2) The amount of revenue deposited or transferred to the credit of
22 each fund during the current month;

23 (3) The amount of withdrawals or transfers from each fund during
24 the current month; and

25 (4) The amount on hand in each fund at the close of business at the
26 end of the current month.

27 One copy of each report shall be provided promptly to those
28 requesting them so long as the supply lasts.

29 NEW SECTION. **Sec. 15.** This act takes effect if the proposed
30 amendments to Article VIII and Article XII of the Constitution,
31 allowing the state legislature to create a state bank that may make
32 decisions to lend, borrow, and invest state moneys (H-4717/10), is
33 validly submitted to and is approved and ratified by the voters at the
34 next general election. If the proposed amendment is not approved and
35 ratified, this act is void in its entirety.

1 NEW SECTION. **Sec. 16.** Sections 1 through 11 of this act
2 constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 17.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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